



DEPARTMENT OF TRANSPORTATION
HAZARDOUS MATERIALS REGULATIONS BOARD
WASHINGTON, D.C. 20590

42366

[Docket No. HM-122; Amdt. Nos. 171-24,
173-88]

**PART 171—GENERAL INFORMATION
AND REGULATIONS**

PART 173—SHIPPERS

**Application of Regulations to Private and
Contract Carriers by Motor Vehicle**

The purpose of these amendments to the Hazardous Materials Regulations is to make it clear once again that, except as otherwise specifically provided in their text, the regulations are applicable to contract and private carriers by motor vehicle who operate in interstate or foreign commerce and to shippers who utilize the services of those carriers.

It has come to the attention of the Board that, in spite of clear indications in the Regulations that they are applicable to transportation by private and contract motor carriers (see, e.g., notes preceding § 173.1) and court decisions and administrative interpretations to the same effect, there have been instances in which private carriers have contended that the rules in the Hazardous Materials Regulations are inapplicable to them. The contentions have been founded upon the fact that both § 171.1 (a) and § 173.1(a) make reference to "common" carriers.

The adjective "common," as used therein, was intended to apply only to rail movements. As noted above, it has always been the intention of the Board to apply the regulations to all carriers who fall within the ambit of the Explosives and Combustibles Act, 18 U.S.C. 831-835, and to shippers who use the services of those carriers. As 18 U.S.C. 831 makes clear, the term "carrier" includes "any person engaged in the transportation of passengers or property by land, as a common, contract, or private carrier."

In consideration of the above, the Board is revising § 171.1 and amending § 173.1(a) to make it clear that the regulations apply to contract and private carriers by motor vehicle and to shippers who use the services of those carriers.

Since these amendments are interpretative and do not alter the substance of the rules, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, 49 CFR Parts 171, 173 are amended as follows:

(1) In Part 171 table of contents, § 171.1 is revised to read as follows:

Sec.

171.1 Scope of the rules in Parts 170-189 of this subchapter.

(2) § 171.1 is revised to read as follows:

§ 171.1 Scope of the rules in Parts 170-189 of this subchapter.

(a) The rules in Parts 170-189 of this subchapter apply to:

(1) Transportation of hazardous materials and preparation of hazardous materials for transportation by:

(i) Common carriers by rail freight, rail express, rail baggage, highway, or water; and

(ii) Contract and private carriers of property by highway; and

(2) Construction of containers, packaging, weight, marking, labeling when required, billing, and shipper's certificate of compliance with those rules, in connection with the transportation specified in subparagraph (1) of this paragraph; and

(3) Cars, loading, storage, billing, placarding, and movement of hazardous materials by carriers by rail.

(b) Regulations for equipment and operation of motor vehicles on the highways are published in Parts 390-397 of this Title.

§ 171.3 [Amended]

(3) In § 173.1, paragraph (a) is amended by deleting the word "common" and changing the word "chapter" to read "subchapter" in the first sentence.

These amendments are effective December 5, 1974.

AUTHORITY: Transportation of Explosives Act, (18 U.S.C. 831-835), sec. 6 of the Department of Transportation Act (49 U.S.C. 1655); Title VI and sec. 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472(b), and 1655(c)).

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